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Attorneys for Plaintiff

Our File No.: 113931

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

Iraida Calderon, individually and on behalf of all others
similarly situated,

Plaintiff,

vs.

ARStrat, LLC,

Defendant.

Docket No:

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

Iraida Calderon, individually and on behalf of all others similarly situated (hereinafter referred to as “*Plaintiff*”), by and through the undersigned counsel, complains, states and alleges against ARStrat, LLC (hereinafter referred to as “*Defendant*”), as follows:

INTRODUCTION

1. This action seeks to recover for violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (“FDCPA”).

JURISDICTION AND VENUE

2. This Court has federal subject matter jurisdiction pursuant to 28 U.S.C. § 1331 and 15 U.S.C. § 1692k(d).

3. Venue is proper under 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to the claim occurred in this Judicial District.

4. At all relevant times, Defendant conducted business within the State of New York.

PARTIES

5. Plaintiff Iraida Calderon is an individual who is a citizen of the State of New York residing in Suffolk County, New York.

6. Plaintiff is a “consumer” as defined by 15 U.S.C. § 1692a(3).

7. On information and belief, Defendant ARStrat, LLC, is a Texas Limited Liability Company with a principal place of business in Harris County, Texas.

8. Defendant is regularly engaged, for profit, in the collection of debts allegedly owed by consumers.

9. Defendant is a “debt collector” as defined by 15 U.S.C. § 1692a(6).

ALLEGATIONS

10. Defendant alleges Plaintiff owes a debt (“the Debt”).

11. The Debt was primarily for personal, family or household purposes and is therefore a “debt” as defined by 15 U.S.C. § 1692a(5).

12. Sometime after the incurrence of the Debt, Plaintiff fell behind on payments owed.

13. Thereafter, at an exact time known only to Defendant, the Debt was assigned or otherwise transferred to Defendant for collection.

14. In its efforts to collect the debt, Defendant contacted Plaintiff by letter (“the Letter”) dated December 19, 2016. (“**Exhibit 1.**”)

15. The Letter was the initial communication Plaintiff received from Defendant.

16. The Letter is a “communication” as defined by 15 U.S.C. § 1692a(2).

17. 15 U.S.C. § 1692g provides that within five days after the initial communication with a consumer in connection with the collection of any debt, a debt collector shall, unless the information is contained in the initial communication or the consumer has paid the debt, send the consumer a written notice containing certain enumerated information.

18. 15 U.S.C. § 1692e prohibits a debt collector from using any false, deceptive, or misleading representations or means in connection with the collection of any debt.

19. § 1692e(2)(A) prohibits the false representation of the character, amount, or legal status of any debt.

20. 15 U.S.C. § 1692e(10) specifically prohibits the “use of any false representation

or deceptive means to collect or attempt to collect any debt.”

21. The Letter alleges that such is the second notice from Defendant to Plaintiff concerning the Debt.

22. The Letter states, “**Second Notice.**” (emphasis in original.)

23. The Letter states, “We sent you a first notice which included your rights under the Fair Debt Collection Practices Act.”

24. The above statements are false.

25. The Letter was the initial communication Plaintiff received from Defendant.

26. The Letter, because of the false statements, would likely confuse the least sophisticated consumer.

27. The Letter, because of the false statements, would likely confuse the least sophisticated consumer as to when his or her validation rights run.

28. The Letter, because of the false statements, would likely lead the least sophisticated consumer to believe that he or she is missing the “First Notice” from Defendant.

29. The Letter, because of the false statements, would likely make the least sophisticated consumer unsure as to when his or her validation rights run.

30. The Letter, because of the false statements, would likely make the least sophisticated consumer unsure whether he or she is missing the “First Notice” from Defendant.

31. Defendant’s conduct, as described, violates § 1692e.

32. Defendant’s conduct, as described, violates § 1692g.

CLASS ALLEGATIONS

33. Plaintiff brings this action individually and as a class action on behalf of all persons similarly situated in the State of New York from whom Defendant attempted to collect a consumer debt using a collection letter claiming such was the “Second Notice” even though it was the first notice from Defendant, from one year before the date of this Complaint to the present.

34. This action seeks a finding that Defendant’s conduct violates the FDCPA, and asks that the Court award damages as authorized by 15 U.S.C. § 1692k.

35. Defendant regularly engages in debt collection.

36. The Class consists of more than 35 persons from whom Defendant attempted to

collect delinquent consumer debts using a collection letter claiming such was the “Second Notice” even though it was the first notice from Defendant.

37. Plaintiff’s claims are typical of the claims of the Class. Common questions of law or fact raised by this class action complaint affect all members of the Class and predominate over any individual issues. Common relief is therefore sought on behalf of all members of the Class. This class action is superior to other available methods for the fair and efficient adjudication of this controversy.

38. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to the individual members of the Class, and a risk that any adjudications with respect to individual members of the Class would, as a practical matter, either be dispositive of the interests of other members of the Class not party to the adjudication, or substantially impair or impede their ability to protect their interests. Defendant has acted in a manner applicable to the Class as a whole such that declaratory relief is warranted.

39. Plaintiff will fairly and adequately protect and represent the interests of the Class. The management of the class action proposed is not extraordinarily difficult, and the factual and legal issues raised by this class action complaint will not require extended contact with the members of the Class, because Defendant’s conduct was perpetrated on all members of the Class and will be established by common proof. Moreover, Plaintiff has retained counsel experienced in actions brought under consumer protection laws.

JURY DEMAND

40. Plaintiff hereby demands a trial of this action by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

- a. Certify this action as a class action; and
- b. Appoint Plaintiff as Class Representative of the Class, and Plaintiff’s attorneys as Class Counsel; and
- c. Find that Defendant’s actions violate the FDCPA; and

- d. Grant damages against Defendant pursuant to 15 U.S.C. § 1692k;
and
- e. Grant Plaintiff's attorneys' fees pursuant to 15 U.S.C. § 1692k;
and
- f. Grant Plaintiff's costs; together with
- g. Such other relief that the Court determines is just and proper.

DATED: December 4, 2017

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